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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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KENNETH N. CAIN, §  
Plaintiff, §  
versus § CIVIL ACTION NO. 1:15-CV-405  
THANH NGUYEN, §  
Defendant. §

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Kenneth N. Cain, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Thanh Nguyen.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying plaintiff's motion for summary judgment.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed a motion to alter or amend judgment, which the court liberally construes as objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit.

## ORDER

Accordingly, plaintiff's objections (#83) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#79) is **ADOPTED**. Plaintiff's motion for summary judgment (#68) is **DENIED**.

SIGNED at Plano, Texas, this 24th day of May, 2017.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE